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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप म रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

## LOK SABHA

The following Bills were introduced in Lok Sabha on the 1st August, 1966:—

BILL No. 47 OF 1966

*A Bill to provide for the more effective prevention of unlawful activities of individuals and associations and for matters connected therewith.*

BE it enacted by Parliament in the Seventeenth Year of the Republic of India as follows:—

### CHAPTER I

### PRELIMINARY

1. (*1*) This Act may be called the Unlawful Activities (Prevention) Act, 1966. Short title and extent.

(2) It extends to the whole of India.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "association" means any combination or body of individuals, whether the same is known by any distinctive name or not;

(*b*) "cession of a part of the territory of India" includes admission of the claim of any foreign country to any such part;

(*c*) "enemy" means—

(*i*) any person or country at war with, or committing aggression against, India;

(*ii*) any person belonging to any such country;

(*iii*) such other country as may be declared by the Central Government to be assisting the country at war with, or committing aggression against, India;

(*iv*) any person belonging to a country specified in sub-clause (*iii*);

(*d*) "prescribed" means prescribed by rules made under this Act;

(*e*) "secession of a part of the territory of India from the Union" includes the assertion of any right to determine whether such part will remain a part of the territory of India;

(*f*) "Tribunal" means the Tribunal constituted under section 5;

(*g*) "unlawful activity", in relation to an individual or association, means any action taken by such individual or association (whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise)—

(*i*) which is intended, or supports any claim, to bring about on any ground whatsoever the cession of a part of the territory of India or the secession of a part of the territory of India from the Union or which incites any individual or group of individuals to bring about such cession or secession;

(*ii*) which renders, or is intended to render assistance to any enemy;

(*iii*) which propagates or is intended to propagate the cause of any country which, by war or aggression, has threatened, or is threatening, the security of India or any part of the territory thereof;

(*iv*) which disclaims or questions the sovereignty of India in respect of any part of the territory of India;

(*v*) which disrupts or is intended to disrupt the integrity of India;

(*vi*) which is intended to overthrow the Government as by law established by—

(*a*) force or violence or show of force or violence,

(*b*) pursuing any direction of any foreign country;

(*h*) "unlawful association" means any association—

(*i*) which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members habitually undertake such activity; or

(*ii*) which is subject to foreign influence or control, or is under the control of persons concerned in the Government of any foreign country committing aggression against India, where in any such case there is danger of the utilisation of the association for purposes prejudicial to the defence of India or the sovereignty and integrity of India; or

(*iii*) which is organised or equipped in such manner as to enable the members of the association to be employed, or as to arouse reasonable apprehension that the members of the association may be employed, in usurping the functions of the Armed Forces of the Union or of any police force or of any other force constituted under any law for the time being in force; or

(*iv*) which is organised or equipped in such manner as to enable the raising of any secret or private armed group

for the purpose of overthrowing the Government as by law established, by force or violence or show of force or violence; or

(*v*) which uses any means to incite or induce any person subject to military, naval or air force law—

(*a*) to cause any mutiny in the military, naval or air force or any other Armed Forces of the Union or any force co-operating therewith or to join in any such mutiny, or

(*b*) to abstain from discharging duties imposed by any law for the time being in force.

## CHAPTER II

### UNLAWFUL ASSOCIATIONS

Declaration of an association as unlawful.

3. (*1*) If the Central Government is of opinion that any association is, or has become, an unlawful association, it may, by notification in the Official Gazette, declare such association to be unlawful.

(*2*) Every such notification shall specify the grounds on which it is issued and such other particulars as the Central Government may consider necessary:

Provided that nothing in this sub-section shall require the Central Government to disclose any fact which it considers to be against the public interest to disclose.

(*3*) No such notification shall have effect until the Tribunal has, by an order made under section 4, confirmed the declaration made therein and the order is published in the Official Gazette:

Provided that if the Central Government is of opinion that circumstances exist which render it necessary for that Government to declare an association to be unlawful with immediate effect, it may, for reasons to be stated in writing, direct that the notification shall, subject to any order that may be made under section 4, have effect from the date of its publication in the Official Gazette.

(*4*) Every such notification shall, in addition to its publication in the Official Gazette, be published in not less than one daily newspaper having circulation in the State in which the principal office, if any, of the association affected is situated, and shall also be served on such association in such manner as the Central Government may

think fit and all or any of the following modes may be followed in effecting such service, namely:—

(*a*) by affixing a copy of the notification to some conspicuous part of the office, if any, of the association; or

(*b*) by serving a copy of the notification, where possible, on the principal office-bearers, if any, of the association; or

(*c*) by proclaiming by beat of drum or by means of loud-speakers, the contents of the notification in the area in which the activities of the association are ordinarily carried on; or

(*d*) in such other manner as may be prescribed.

Reference to Tribunal.

4. (*1*) Where any association has been declared unlawful by a notification issued under sub-section (*1*) of section 3, the Central Government shall, within thirty days from the date of the publication of the notification under the said sub-section, refer the notification to the Tribunal for the purpose of adjudicating whether or not there is sufficient cause for declaring the association unlawful.

(*2*) On receipt of a reference under sub-section (*1*), the Tribunal shall call upon the association affected by notice in writing to show cause, within thirty days from the date of the service of such notice, why the association should not be declared unlawful.

(*3*) After considering the cause, if any, shown by the association or the office-bearers or members thereof, the Tribunal shall hold an inquiry in the prescribed manner and after calling for such further information as it may consider necessary from the Central Government or from any office-bearer or member of the association, it shall decide whether or not there is sufficient cause for declaring the association to be unlawful and make, as expeditiously as possible, such order as it may deem fit either confirming the declaration made in the notification or cancelling the same.

(*4*) The order of the Tribunal made under sub-section (*3*) shall be published in the Official Gazette.

Tribunal.

5. (*1*) The Central Government may, by notification in the Official Gazette, constitute, as and when necessary, a tribunal to be known as the "Unlawful Activities (Prevention) Tribunal" consisting of a Chairman and two other members to be appointed by the Central Government.

(2) The Chairman of the Tribunal shall be a person who is, or has been, a Judge of a High Court and the members thereof shall be persons who are qualified to be Judges of High Court.

(3) A person shall be disqualified for being appointed or for continuing as member of the Tribunal if he has directly or indirectly any interest in any association which has been declared unlawful under section 3.

(4) The Chairman or any other member of the Tribunal may resign his office by writing under his hand addressed to the Central Government, but shall continue in office until the appointment of his successor is notified in the Official Gazette.

(5) A casual vacancy caused by the resignation of the Chairman or any other member of the Tribunal under sub-section (4) or otherwise shall be filled by fresh appointment.

(6) No act or proceeding of the Tribunal shall be invalid by reason only of the existence of any vacancy amongst its members or any defect in the constitution thereof.

(7) The Chairman and other members of the Tribunal shall receive such remuneration and shall be governed by such conditions of service as the Central Government may determine:

Provided that the remuneration of the Chairman or any other member shall not be varied to his disadvantage after his appointment.

(8) The Central Government shall make available to the Tribunal such staff as may be necessary for the discharge of its functions under this Act.

**(9) All expenses incurred in connection with the Tribunal shall be defrayed out of the Consolidated Fund of India.**

(10) The Tribunal shall have power to regulate its own procedure in all matters arising out of the discharge of its functions including the place or places at which it will hold its sittings.

(11) In the case of a difference of opinion among the members of the Tribunal, the opinion of the majority shall prevail and orders of the Tribunal shall be expressed in terms of the views of the majority.

(12) The Tribunal shall, for the purpose of making an inquiry under this Act, have the same powers as are vested in a civil

5 of 1908. court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

(*a*) the summoning and enforcing the attendance of any witness and examining him on oath;

(*b*) the discovery and production of any document or other material object producible as evidence;

(*c*) the reception of evidence on affidavits;

(*d*) the requisitioning of any public record from any court or office;

(*e*) the issuing of any commission for the examination of witnesses.

(*13*) Any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of 45 of 1860. the Indian Penal Code and the Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898. 5 of 1898.

Period of operation and cancellation of notification.

**6.** (*1*) Subject to the provisions of sub-section (*2*), a notification issued under section 3 shall, if the declaration made therein is confirmed by the Tribunal by an order made under section 4, remain in force for a period of two years from the date on which the notification becomes effective :

Provided that if the Central Government considers that since the issue of notification there has been no material change in the circumstances under which the notification was issued, the Central Government may, from time to time, extend the period of operation of the notification by any period not exceeding one year at a time.

(*2*) Notwithstanding anything contained in sub-section (*1*), the Central Government may, either on its own motion or on the application of any person aggrieved, at any time, cancel the notification issued under section 3, whether or not the declaration made therein has been confirmed by the Tribunal.

Power to prohibit the use of funds of an unlawful association.

**7.** (*1*) Where an association has been declared unlawful by a notification issued under section 3 which has become effective under sub-section (*3*) of that section and the Central Government is satisfied, after such inquiry as it may think fit, that any person has custody of any moneys, securities or credits which are being used or are intended to be used for the purpose of the unlawful association, the Central Government may, by order in writing, prohibit

such person from paying, delivering, transferring or otherwise dealing in any manner whatsoever with such moneys, securities or credits or with any other moneys, securities or credits which may come into his custody after the making of the order, save in accordance with the written orders of the Central Government and a copy of such order shall be served upon the person so prohibited in such manner as may be prescribed.

(2) The Central Government may endorse a copy of the prohibitory order made under sub-section (1) for investigation to any officer it may select, and such copy shall be a warrant whereunder such officer may enter in or upon any premises of the person to whom the order is directed, examine the books of such person, search for moneys, securities and credits, and make inquiries from such person or any officer, agent or servant of such person, touching the origin of any dealings in any moneys, securities or credits which the investigating officer may suspect are being used or are intended to be used for the purposes of the unlawful association.

(3) A copy of an order made under this section may be served in the manner provided in the Code of Criminal Procedure, 1898, for the service of a summons, or, where the person to be served is a corporation, company, bank or association of persons, it may be served on any secretary, director or other officer or person concerned with the management thereof, or by leaving it or sending it by post addressed to the corporation, company, bank or association at its registered office, or where there is no registered office, at the place where it carries on business. 5 of 1898.

(4) Any person aggrieved by a prohibitory order made under sub-section (1) may, within fifteen days from the date of the service of such order, make an application to the Court of the District Judge within the local limits of whose jurisdiction such person voluntarily resides or carries on business or personally works for gain, to establish that the moneys, securities or credits in respect of which the prohibitory order has been made are not being used or are not intended to be used for the purpose of the unlawful association and the Court of the District Judge shall decide the question.

(5) Except so far as is necessary for the purposes of any proceedings under this section, no information obtained in the course of any investigation made under sub-section (2) shall be divulged by any officer of Government, without the consent of the Central Government.

(6) In this section, "security" includes a document whereby any person acknowledges that he is under a legal liability to pay money, or whereunder any person obtains a legal right to the payment of money.

Power to notify places used for the purpose of an unlawful association and consequences following from such notification.

8. (1) Where an association has been declared unlawful by a notification issued under section 3 which has become effective under sub-section (3) of that section, the Central Government may, by notification in the Official Gazette, notify any place which in its opinion is used for the purposes of such unlawful association.

*Explanation.*—For the purposes of this sub-section, "place" includes a house or building, or part thereof, or a tent or vessel.

(2) On the issue of a notification under sub-section (1), the District Magistrate within the local limits of whose jurisdiction such notified place is situate or any officer authorised by him in writing in this behalf shall make a list of all movable properties found in the notified place in the presence of two respectable witnesses.

(3) If, in the opinion of the District Magistrate, any articles specified in the list are or may be used for the purposes of the unlawful association, he may make an order prohibiting any person from using the article save in accordance with the written orders of the District Magistrate.

(4) The District Magistrate or any officer authorised by him in writing in this behalf may thereupon make an order that no person who at the date of the notification was not a resident in the notified place shall, without the permission of the District Magistrate, enter, or be on or in, the notified place.

(5) Where in pursuance of sub-section (4), any person is granted permission to enter, or to be on or in, the notified place, that person shall, while acting under such permission, comply with such orders for regulating his conduct as may be given by the District Magistrate.

(6) Any police officer or any other person authorised in this behalf by the Central Government may search any person entering, or seeking to enter, or being on or in, the notified place and may detain any such person for the purpose of searching him :

Provided that no female shall be searched in pursuance of this sub-section except by a female.

(7) If any person is in the notified place in contravention of an order made under sub-section (4), then, without prejudice to any other proceedings which may be taken against him, he may be removed therefrom by any police officer or by any other person authorised in this behalf by the Central Government.

(8) Any person aggrieved by a notification issued in respect of a place under sub-section (1) or by an order made under sub-section (3) or sub-section (4) may, within thirty days from the date of the notification or order, as the case may be, make an application to the Court of the District Judge within the local limits of whose jurisdiction such notified place is situate—

(a) for declaration that the place has not been used for the purposes of the unlawful association, or

(b) for setting aside the order made under sub-section (3) or sub-section (4),

and on receipt of the application the Court of the District Judge shall, after giving the parties an opportunity of being heard, decide the question.

Procedure to be followed in the disposal of applications under this Act.

**9.** Subject to any rules that may be made under this Act, the procedure to be followed by the Tribunal in holding any inquiry under sub-section (3) of section 4 or by a Court of the District Judge in disposing of any application under sub-section (4) of section 7 or sub-section (8) of section 8 shall, so far as may be, be the procedure laid down in the Code of Civil Procedure, 1908, for the investigation of claims and the decision of the Tribunal or the Court of the District Judge, as the case may be, shall be final. 5 of 1908.

## CHAPTER III

### OFFENCES AND PENALTIES

Penalty for being members of an unlawful association.

**10.** Whoever is a member of an association declared unlawful by a Notification under section 3 which has become effective under sub-section (3) of that section, or takes part in meetings of any such unlawful association, or contributes or receives or solicits any contribution for the purpose of any such unlawful association, or in any way assists the operations of any such unlawful association, shall be punishable with imprisonment for a term which may extend to—

(a) seven years, where such association has for its object any unlawful activity which is intended to overthrow the Government as by law established, by—

(*i*) force or violence or show of force or violence;

(*ii*) rendering assistance to an enemy or to any country which by war or aggression, has threatened, or is threatening, the security of India;

(*b*) three years, in any other case,

and shall also be liable to fine.

Penalty for dealing with funds of an unlawful association.

**11.** If any person on whom a prohibitory order has been served under sub-section (*1*) of section 7 in respect of any moneys, securities or credits pays, delivers, transfers or otherwise deals in any manner whatsoever with the same in contravention of the prohibitory order, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both, and notwithstanding anything contained in the Code of Criminal Procedure, 1898, the court trying such contravention may also impose on the person convicted an additional fine to recover from him the amount of the moneys or credits or the market value of the securities in respect of which the prohibitory order has been contravened or such part thereof as the court may deem fit.

5 of 1898.

Penalty for contravention of an order made in respect of a notified place.

**12.** (*1*) Whoever uses any article in respect of which a prohibitory order has been made under sub-section (*3*) of section 8 shall be punishable with imprisonment for a term which may extend to three years, and shall also be liable to fine.

(*2*) Whoever is in, or effects or attempts to effect entry into, a notified place in contravention of an order made under sub-section (*4*) of section 8 shall be punishable with imprisonment for a term which may extend to three years, and shall also be liable to fine.

(*3*) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence under sub-section (*1*) or sub-section (*2*) shall be cognizable.

5 of 1898.

Punishment for unlawful activities.

**13.** (*1*) Whoever—

(*a*) takes part in or commits, or

(*b*) advocates, abets, advises or incites the commission of,

any unlawful activity, shall be punishable with imprisonment for a term which may extend to ten years, and shall also be liable to fine.

(2) Whoever, in any way, assists any unlawful activity of any association, declared unlawful under section 3, after the notification by which it has been so declared has become effective under sub-section (3) of that section, shall be punishable with imprisonment

for a term which may extend to seven years, or with fine, or with both.

(3) Nothing in this section shall apply to any treaty, agreement or convention entered into between the Government of India and the Government of any other country or to any negotiations therefor carried on by any person authorised in this behalf by the Government of India.

## CHAPTER IV

### MISCELLANEOUS

Continuance of association.

**14.** An association shall not be deemed to have ceased to exist by reason only of any formal act of its dissolution or change of name but shall be deemed to continue so long as any actual combination for the purposes of such association continues between any members thereof.

Power to declare succeeding association to be unlawful.

**15.** If the Central Government is satisfied that any association is engaged, in succession to any association which has been declared to be unlawful under this Act, in activities substantially similar to those formerly carried on thereby, that Government may, by a notification in the Official Gazette, declare such succeeding association to be unlawful and thereupon the provisions of this Act shall apply to the succeeding association.

Bar of jurisdiction.

**16.** Save as otherwise expressly provided in this Act, no proceeding taken under this Act by the Central Government or the District Magistrate or any officer authorised in this behalf by the Central Government or the District Magistrate shall be called in question in any court in any suit or application or by way of appeal or revision, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Prosecution for offences under this Act.

**17.** No court shall take cognizance of any offence punishable under this Act except with the previous sanction of the Central Government or any officer authorised by the Central Government in this behalf.

Protection of action taken in good faith.

**18.** (*1*) No suit or other legal proceeding shall lie against the Central Government in respect of any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rules or orders made thereunder.

(2) No suit, prosecution or other legal proceeding shall lie against the District Magistrate or any officer authorised in this behalf by the Central Government or the District Magistrate in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rules or orders made thereunder.

Power to delegate.

**19.** The Central Government may, by notification in the Official Gazette, direct that all or any of the powers which may be exercised by it under this Act, shall, in such circumstances and under such conditions, if any, as may be specified in the notification, be exercised also by any State Government and the State Government may, with the previous approval of the Central Government, by order in writing direct that any power which has been directed to be exercised by it shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised by any person subordinate to the State Government as may be specified therein.

Effect of Act and rules, etc., inconsistent with other enactments.

**20.** The provisions of this Act or any rule or order made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

Power to make rules.

**21.** (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the service of notices or orders issued or made under this Act and the manner in which such notices and orders may be served, where the person to be served is a corporation, company, bank or association;

(b) the procedure to be followed by the Tribunal or a District Judge in holding any inquiry or disposing of any application under this Act;

(c) any other matter which has to be, or may be, prescribed.

(3) Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions,

and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeal and saving.

22. (*1*) The Unlawful Activities (Prevention) Ordinance, 1966 is hereby repealed. 6 of 1966.

(*2*) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act, as if this Act had come into force on the 17th day of June, 1966.

## STATEMENT OF OBJECTS AND REASONS

Pursuant to the acceptance by Government of a unanimous recommendation of the Committee on National Integration and Regionalism appointed by the National Integration Council, the Constitution (Sixteenth Amendment) Act, 1963, was enacted empowering Parliament to impose, by law, reasonable restrictions in the interests of the sovereignty and integrity of India, on the—

(*i*) freedom of speech and expression;
(*ii*) right to assemble peaceably and without arms; and
(*iii*) right to form associations or unions.

2. In pursuance of these constitutional provisions, a draft Bill entitled the Unlawful Activities (Prevention) Bill was prepared to deal with individuals and associations engaged in secessionist and other activities directed against the integrity and sovereignty of the Union. Owing to the pressure of legislative business in Parliament during the Budget session, the Bill could not be introduced or passed. Meanwhile, Government took a decision to restrict the application of the Defence of India Act and Rules to certain States and territories and for certain purposes connected with defence, and to have recourse to the maximum extent possible to the normal laws, existing or to be enacted when necessary. With this decision, the necessity to have a law to deal with secessionist and other activities directed against the integrity and sovereignty of the Union became urgent. As, however, Parliament had by then adjourned, the President promulgated the Unlawful Activities (Prevention) Ordinance, 1966 on 17th June, 1966. The present Bill seeks to replace the said Ordinance.

NEW DELHI; G. L. NANDA.
*The 22nd July,* 1966.

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## PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 25/3/63 Poll-IA, dated the 26th July, 1966 from Shri Jai Sukh Lal Hathi, Minister of State in the Ministry of Home Affairs to the Secretary, Lok Sabha].

The President, having been informed of the subject matter of the Unlawful Activities (Prevention) Bill, 1966, recommends consideration of the Bill in the Lok Sabha under article 117(3) of the Constitution of India.

## FINANCIAL MEMORANDUM

Clause 5 of the Unlawful Activities (Prevention) Bill, 1966 provides for the constitution of a Tribunal to be known as the Unlawful Activities (Prevention) Tribunal consisting of a Chairman and two other members to be appointed by the Central Government. All expenses to be incurred in connection with the Tribunal would be met from the Consolidated Fund of India. It will be constituted as and when necessary. The expenditure is not expected to be large and is not likely to exceed Rs. 99,210 during the year in which such a Tribunal is constituted.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 21 of the Bill empowers the Central Government to make rules to carry out the purposes of the Bill. The matters in respect of which rules may be made relate, *inter alia*, to the service of notices or orders issued or made under the Bill and the manner in which such notices and orders may be served, where the person to be served is a corporation, company, bank or association; the procedure to be followed by the Tribunal or a District Judge in holding any inquiry or disposing of any application under the Bill. These matters pertain to procedure or detail necessary for the effective administration of the provisions of this Bill and as such the delegation of legislative power is of a normal character.

2. Clause 19 of the Bill empowers the Central Government to direct the State Government to exercise all or any of the powers exercisable by it under the Bill and further empowers the State Government to direct, with the previous approval of the Central Government, any person subordinate to the State Government, to exercise any power which has been directed to be exercised by the State Government. The delegation to the State Government of any power exercisable by the Central Government under the Bill is necessary for the effective administration of the Bill and is of a normal character.

BILL No. 48 OF 1966

*A Bill further to amend the Defence of India Act, 1962.*

BE it enacted by Parliament in the Seventeenth Year of the Republic of India as follows:—

Short title.

**1.** (*1*) This Act may be called the Defence of India (Amendment) Act, 1966.

Restricted use of Defence of India Act and Rules.

**2.** (*1*) As soon as may be after the commencement of this Act,—

(*a*) the President may, by order in the Official Gazette, direct that on and after such date as may be specified therein, the Defence of India Act, 1962, the Defence of India Rules, 1962 and all other rules made under that Act, or so much of that Act and of those rules as may be specified in the order, shall continue to be in force in such part or parts of the territory of India as may be specified in that order for all the purposes referred to

51 of 1962.

in that Act and those rules, and thereupon, the provision, if any, of that Act and those rules not specified in that order shall cease to operate in such part or parts except as respects things done or omitted to be done before such cesser of operation of those provisions and section 6 of the General Clauses Act, 1897, shall apply upon such cesser of operation as if such cesser were a repeal of an enactment by a Central Act;

10 of 1897.

(*b*) the President may, by the same or a different order in the Official Gazette, direct that on and after such date as may be specified in the order, the Defence of India Act, 1962, the Defence of India Rules, 1962 and all other rules made under that Act, or so much of that Act and of those rules as may be specified in that order, shall continue to be in force in the rest of the territory of India, not for all the purposes referred to in that Act and those rules but only for the purpose of securing--

51 of 1962.

(*A*) the defence of India by any one or more of the following means, that is to say, by providing for--

(*i*) the prevention or prohibition of communication with the enemy or agents of the enemy and the restriction of movements (including the apprehension and detention in custody), and activities of persons for the purpose of such prevention or prohibition;

(*ii*) the control of publication or communication of information relating to defence matters;

(*iii*) the prohibition or regulation of entry into any place or area the control of which is considered necessary or expedient;

(*iv*) the control of movements of persons to and from enemy territory or occupied territory;

(*v*) the prevention or prohibition of advancing of money to, or contracts or commercial dealings with, the enemy, enemy subjects or persons residing, carrying on business, or being in enemy territory or occupied territory; or

(B) civil defence; or

(C) the public safety or the maintenance of public order or the efficient conduct of military operations in any part or parts of the territory of India referred to in clause (*a*),

and thereupon,--

(*i*) the provisions of that Act and those rules specified in that order shall cease to operate in the rest of the territory of India for all purposes other than the purposes referred to in items (*A*), (*B*) and (*C*) above;

(*ii*) the provisions of that Act and those rules, if any, not specified in that order shall cease to operate in the rest of the territory of India for all purposes,

except as respects things done or omitted to be done before such cesser of operation of those provisions and section 6 of the General Clauses Act, 1897, shall apply upon such cesser of operation as if such cesser were a repeal of an enactment by a Central Act. 10 of 1897.

*Explanation.*—In clause (*b*), the reference to the Defence of India Act, 1962, shall be construed as if in that Act,— 51 of 1962.

(*i*) in section 3, sub-clause (*b*) of clause (*iv*) of sub-section (*3*) had been omitted;

(*ii*) Chapter IV (relating to Special Tribunals) had been omitted; and

(*iii*) in Chapter VI (relating to requisitioning and acquisition of immovable property), the references to the State Government had been omitted,

except as respects things done or omitted to be done before such omission and section 6 of the General Clauses Act, 1897, shall apply upon such omission as if such omission were a repeal of an enactment by a Central Act. 10 of 1897.

(*2*) When the Defence of India Act, 1962 and the rules made thereunder or any portion thereof continue or continues to be in force in any part or parts of the territory of India for any purpose referred to in that Act by virtue of an order under sub-section (*1*), all orders, notifications, directions and other statutory instruments made or issued under that Act or those rules and in force in such part or parts immediately before the date specified in the order under sub-section (*1*) shall continue to be in force for such purpose and any such order, notification, direction or other statutory instrument may be varied or rescinded by the authority competent for the time being to make or issue such order, notification, direction or statutory instrument but only for such purpose. 51 of 1962.

(*3*) Every order issued by the President under sub-section (*1*) shall be laid as soon as may be after it is issued, before each House of Parliament.

51 of 1962. (4) Notwithstanding anything contained in this Act or in the Defence of India Act, 1962, as amended by this Act,—

(*a*) rule 47 (relating to publication of inventions and designs) of the Defence of India Rules, 1962, shall continue, until otherwise directed by the Central Government by notification in the Official Gazette, to operate throughout the whole of India; and

(*b*) Part XIIA (relating to Gold Control) of the Defence of India Rules, 1962, shall continue, until the commencement of the 18 of 1965. Gold (Control) Act, 1965, to operate throughout the whole of India, together with so much of the other provisions of the Defence of India Rules, 1962, as is necessary for the effective enforcement of the provisions referred to in clauses (*a*) and (*b*).

(5) Notwithstanding anything contained in this Act or in the 51 of 1962. Defence of India Act, 1962, as amended by this Act, in respect of any action taken or anything done (not being an order of detention under rule 30 of the Defence of India Rules, 1962) by the Government or by an officer or other authority of the Government in exercise of executive powers under any provision of the Defence of India Act, 1962, or the rules made thereunder before the cesser of operation of such provision in any part or parts of the territory of India by virtue of an order under sub-section (*1*), whether or not such action or thing is relatable to any of the purposes referred to in items (*A*), (*B*) and (*C*) of clause (*b*) of sub-section (*1*), all the relevant provisions of the said Act and rules shall be deemed to continue in force in such part or parts only in so far as such continuance is necessary for keeping in force such action or thing and for taking such further steps in connection therewith as may be taken under those provisions.

(*6*) In making an order under clause (*b*) of sub-section (*1*), the President may, by that order, make such modifications in any provi- 51 of 1962. sions of the Defence of India Act, 1962 and the rules made thereunder as may be necessary to limit the application of such provisions to the purposes specified in such order.

**3.** In the Defence of India Act, 1962,— **Amendment of Act 51 of 1962.**

(*1*) in section 1,—

(*a*) in sub-section (*2*), for the words "It extends to the whole of India", the words, figures and brackets "This Act or, as the case may be, any portion thereof extends only to such part or parts of the territory of India in which it may continue to be in force by virtue of an order of the President

issued under section 2 of the Defence of India (Amendment) Act, 1966" shall be substituted;

(*b*) in sub-section (*3*), for the words, figures and letters "It shall remain in force during the period of operation of the Proclamation of Emergency issued on the 26th October, 1962, and for a period of six months thereafter", the words, figures and letters "If immediately before the revocation of the Proclamation of Emergency issued on the 26th October, 1962, this Act or, as the case may be, any portion thereof is in force in any part or parts of the territory of India, then, it shall remain in force in such part or parts for a period of six months after such revocation" shall be substituted;

(2) in section 6, for the words "During the continuance in force of this Act,—", the words "During the continuance in force of this Act or, as the case may be, any portion thereof in any part of the territory of India, the following Acts shall have effect in such part subject to the amendments hereinafter provided so however that the amended provisions of the said Acts shall apply only in relation to the purpose or purposes for which this Act or, as the case may be, any portion thereof continues to be in force in that part, namely:—" shall be substituted.

Power to remove difficulties.

4. (*1*) If any difficulty arises in giving effect to the provisions of this Act or of the Defence of India Act, 1962 as amended by this Act, the Central Government may, by order published in the Official Gazette, make such provision as appears to it to be necessary or expedient for the removal of the difficulty. 51 of 1962.

(2) Every order made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

## STATEMENT OF OBJECTS AND REASONS

The need and use of Defence of India laws in the changed context were recently reviewed by Government and the conclusions reached were announced in statements made in the Lok Sabha and Rajya Sabha on the 18th May, 1966. One of the conclusions was that the Defence of India Act and Rules should be limited in their application in whole or in part to such area or areas, and for such purposes, as the President may, by order in the Official Gazette, specify, in order that Government could have wider powers under the Defence of India Act and Rules in relation to certain border States and territories than in relation to the rest of India where some powers may be required mainly for purposes connected with the defence of India and civil defence.

2. The Bill seeks to empower the President to issue suitable orders restricting the operation of the Defence of India Act and the rules made thereunder on the lines indicated above. The Bill also seeks to make for this purpose the necessary consequential amendments in the Defence of India Act, 1962.

NEW DELHI;
*The 25th July*, 1966.

G. L. NANDA.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill empowers the President to provide by order for restricted use of the Defence of India Act and the rules made thereunder. The intention is to limit the application of the Act and the rules or any portion thereof only to certain specified areas and to retain their applicability in the rest of India for the limited purposes of defence of India by certain specified means, civil defence, and for the public safety or the maintenance of public order or the efficient conduct of military operations in those specified areas. Delegation of power to the President is necessary as it is not practically possible to specify the areas and the provisions of the Act and the rules which are applicable to such areas. The delegation of legislative power is therefore of a normal character.

BILL NO. 43 OF 1966

*A Bill further to amend the Advocates Act, 1961.*

BE it enacted by Parliament in the Seventeenth Year of the Republic of India as follows:—

1. This Act may be called the Advocates (Amendment) Act, 1966. Short title.

25 of 1961.

2. For section 8 of the Advocates Act, 1961 (hereinafter referred to as the principal Act), the following section shall be, and shall be deemed always to have been, substituted, namely:— Amendment of section 8.

"8. (1) The term of office of an elected member of a State Bar Council (other than an elected member thereof referred to in section 54) shall be four years from the date of publication of the result of his election. Term of office of members of State Bar Council.

(2) An outgoing member shall continue in office until the publication of the result of the election of his successor.".

Amendment of section 15.

**3.** In section 15 of the principal Act, clause (*e*) of sub-section (*2*) shall be, and shall be deemed always to have been, omitted.

Transitional provision.

**4.** Where, before the commencement of the Advocates (Amendment) Ordinance, 1966, any member of a State Bar Council has retired under section 8 of the principal Act, such member shall be deemed never to have retired and shall continue to hold office for a period of four years from the date of publication of the result of his election as a member of the State Bar Council (re-constituted on the expiry of the term of office of the elected members of the State Bar Council under section 54) and accordingly no act of the State Bar Council or any Committee thereof shall be called in question on the ground merely that such member having ceased to be a member of the State Bar Council on such retirement sat or voted or otherwise took part in the proceedings of the Council or the Committee thereof.

Repeal and saving.

**5.** (*1*) The Advocates (Amendment) Ordinance, 1966 is hereby repealed. 5 of 1966.

(*2*) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act as if this Act had commenced on the 14th day of June, 1966.

## STATEMENT OF OBJECTS AND REASONS

Under section 3 of the Advocates Act, 1961, every State Bar Council shall consist of members (except in the case of *ex officio* members) who are elected from amongst advocates on the electoral roll of the Bar Council. Section 8 of the Act provides that the term of office of the elected members shall be six years and that as nearly as possible, one-third of the members first elected to the Council shall retire on the expiration of every second year and the vacancies so caused shall be filled by the election of new members.

2. Representations were received from the Bar Council of India and some State Bar Councils that the provisions of section 8 of the Act for retirement of one-third of the elected members at the end of every second year and for biennial elections to fill the vacancies caused by such retirement were likely to involve considerable expenditure besides adding to the work of the Bar Councils. It was therefore proposed that section 8 of the Act should be amended so as to provide for retirement of one-half of the elected members every third year in the place of the existing provision for retirement of one-third members every second year. Accordingly provision was made in clause 4 of the Advocates (Amendment) Bill, 1965 to amend section 8 of the Act with retrospective effect so that persons due to retire at the end of the second year could continue for one more year. The Bill was passed by the Rajya Sabha but could not be passed by the Lok Sabha for want of time.

3. In anticipation of the enactment of the Advocates (Amendment) Bill, 1965, some of the State Bar Councils in respect of which the period of two years had expired did not take necessary steps for the holding of the elections in time to fill the vacancies. As the term of one-third of the members had expired and as the Bill had not been passed into law, doubts were expressed as to whether these Bar Councils could carry on their normal functions under the Act. In order to overcome the difficulty created by this situation, the Advocates (Removal of Difficulties) Order, 1966 was made by the Central Government on 10th January, 1966 under section 59 of the Act. This Order was, however, struck down by the Madras High Court by its judgment dated 8th April, 1966 in C.M.P. No. 1446 of 1966 in Writ Petition No. 4313 of 1965 as being *ultra vires* of the powers of the Central Government. It was felt that the situation created by the decision of the Madras High Court and by the

non-passage of the amending Bill in the Lok Sabha, unless remedied immediately, would give rise to various difficulties and complications in relation to the functioning of the State Bar Councils.

4. As the situation had to be remedied immediately and as the Parliament was not in session, the promulgation of an Ordinance by the President was considered most essential. At that stage it was, however, felt that the system of retirement of members by rotation, apart from being expensive, did not really serve any useful purpose and that it should be replaced by a simple provision laying a uniform term of four years for all the elected members of a State Bar Council. Suggestions to this effect had been received from the Bar Council of India and some State Bar Councils. The Advocates Act Review Committee appointed by the Law Minister to review the working of the Act was also in favour of this view and the Attorney General of India who is the Chairman of the Bar Council of India also approved the same. The Advocates (Amendment) Ordinance, 1966 was accordingly promulgated on the 14th June, 1966. Provision has been made therein for amendment of section 8 on these lines and for a consequential change in section 15(2) and for a transitional provision to the effect that where any member of a State Bar Council has already retired under section 8, he shall be deemed never to have retired and shall continue to hold office for a period of four years from the date of publication of his election and that no act of the State Bar Council or any Committee thereof shall be called in question merely because such member having ceased to be a member, had voted or otherwise taken part in the proceedings of the Council or Committee. The Bill seeks merely to replace the Ordinance by an Act of Parliament.

NEW DELHI;
*The 18th July*, 1966.

C. R. PATTABHI RAMAN.

S. L. SHAKDHER,
*Secretary.*

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